

MATTHEW J. KLUGER
ATTORNEY AT LAW

888 GRAND CONCOURSE, SUITE 1H
BRONX, NEW YORK 10451
(718) 293-4900 • FAX (718) 618-0140
www.klugerlawfirm.com

November 7, 2021

By ECF

Hon. J. Paul Oetken
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: United States v. Felix Rodriguez
21 Cr. 361 (JPO)

Dear Judge Oetken,

I was assigned to represent Felix Rodriguez in this matter. The parties last appeared in court on September 8, 2021, at which time the defense was directed to file any motions on or before November 8, 2021. The next pretrial conference is scheduled for December 10, 2021 at 11:00 a.m. I write now to respectfully request that the Court order that a psychological examination of Mr. Rodriguez be done pursuant to 18 U.S.C. §4241(b) and that defense motions be tolled pending the outcome of the competency proceedings.¹

As the Court may recall, prior to his arrest, Mr. Rodriguez was the victim of a home burglary and a brutal pistol whipping that left him unconscious, bleeding, and badly injured. Defense counsel has become increasingly concerned that not only does Mr. Rodriguez appear to forget key moments and facts related to the events in question, but whether Mr. Rodriguez even appreciates the nature of the charges against him or can participate meaningfully in his own defense.² At this point, it would be legally untenable to proceed with this case or file any defense motions until Mr. Rodriguez's competency has been properly evaluated by a qualified expert.

Accordingly, pursuant to the provisions of 18 USC §§4247(b) and (c), I have attached a proposed Order hereto seeking authorization to retain the services of Dr. Leo Shea to perform a

¹ The Government, through AUSA Rebecca Dell and AUSA Jun Xiang, consent to the tolling of motions for the reasons stated herein.

² Counsel has recently completed a jury trial before Judge Preska and had the opportunity to meet with Mr. Rodriguez in my office last week. In my nonexpert opinion, his condition has deteriorated markedly since I last met with him approximately one month ago.

neuropsychological evaluation of Mr. Rodriguez. Dr. Shea is an experienced neuropsychologist who has been certified as an expert in this and other courts around the country ([See www.leoshea.com](http://www.leoshea.com)).

In summary, the defense respectfully requests that:

1. The motion schedule set by the Court on September 8, 2021 be held in abeyance pending the outcome of the competency proceedings;
2. That pursuant to 18 U.S.C. §4241, the Court sign the attached Order authorizing Dr. Shea to evaluate Mr. Rodriguez's competency to proceed; and
3. That the Court adjourn the December 10, 2021 conference for 30-days to allow sufficient time for Dr. Shea to complete his evaluation and prepare a report of his findings.

Thank you.

Respectfully Submitted,



Matthew J. Kluger, Esq.

cc: AUSA's Rebecca Dell and Jun Xiang
Pretrial Services Officer Josh Rothman (email)

Granted. The December 10, 2021 pretrial conference is adjourned to January 13, 2022, at 12:30 pm. The Court hereby excludes time through January 13, 2022, under the Speedy Trial Act, 18 USC 3161(h)(7)(A), finding that the ends of justice outweigh the interests of the public and the defendant in a speedy trial. All motions are stayed.

So ordered: November 9, 2021



J. PAUL OETKEN
United States District Judge